

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated July 10, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-16 are pending in the Application. Claims 15-17 are added by this amendment. By means of the present amendment, the claims are amended including for better conformance to U.S. practice, such as to provide consistency in a use of adjectives in the claims. By these amendments, the claims are not amended to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents. Applicant furthermore reserves the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, claims 1-14 are rejected under 35 U.S.C. §103(a) over European Patent Publication No. WO 01/15582 to Kraan ("Kraan"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-17 are allowable over Kraan for at least the following reasons.

It is undisputed that (emphasis added) "the protrusions of Kraan have straight edges which give way to curved surfaces."

It is respectfully submitted that the beverage making device of claim 1 is not anticipated or made obvious by the teachings of Kraan. For example, Kraan does not teach, disclose or suggest, a beverage making device that amongst other patentable elements, comprises (illustrative emphasis added) "a substantial portion of the surface of the upper wall is provided with protrusions having a height of more than 0.5 mm, the distance between every two neighboring protrusions being less than 12 mm, wherein side walls of the protrusions joining the surface of the upper wall are substantially

straight, wherein a surface of the protrusions furthest from the surface of the upper wall is substantially straight, and wherein the side walls of the protrusions connect to the surface of the protrusions furthest from the surface of the upper wall" as recited in claim 1, and as similarly recited in claim 11.

Even the Final Office Action admits that the protrusions of Kraan give way to curved surfaces.

Based on the foregoing, the Applicant respectfully submits that independent claims 1 and 11 are patentable over Kraan and notice to this effect is earnestly solicited. Claims 2-10 and 12-17 respectively depend from one of claims 1 and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

For example, while the Final Office Action takes a position that "it would have been an obvious matter of design choice to construct the protrusions of the claimed height and distance therebetween, since applicant has not disclosed that such heights and distances solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with that disclosed in Kraan. This position is respectfully refuted.

It was the Applicant that recognized that "the higher the protrusions, the greater the distance between the protrusions can be." (See, present application, page 2, lines 23-28.) Certainly Kraan can not be said to teach, disclose or suggest this relationship. For example, it is respectfully submitted that the beverage making device of claim 5 is not anticipated or made obvious by the teachings of Kraan. For example, Kraan does not teach, disclose or suggest, a beverage making device that amongst other patentable elements, comprises "the distance between every two

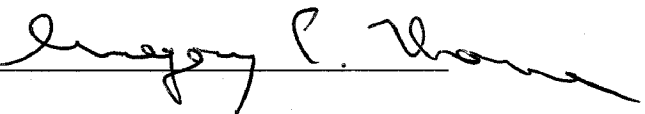
neighboring protrusions is less than eight times the height of the protrusions" as recited in claim 5, and as similarly recited in claim 17.

Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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